



LEGAL SERVICES CORPORATION

45 CFR Chapter XVI

Issuance of Updated Audit Guide for Recipients and Auditors and Appendices for Audits of Legal Services Corporation Recipients

AGENCY: Legal Services Corporation, Office of Inspector General.

ACTION: Notice of issuance of final audit guide and appendices.

SUMMARY: The Legal Services Corporation (LSC) Office of Inspector General (OIG) updated its *Audit Guide for Recipients and Auditors*, (*LSC OIG Audit Guide*), the Compliance Supplement (Appendix A), and Appendices B-E. The Audit Guide must be used for audits for fiscal years ending September 30, 2023, and thereafter. *The LSC OIG Audit Guide* was published in December 1996 and is outdated. Aside from one Audit Bulletin issued in 1997, it has not been updated since. Appendix A, Compliance Supplement for Audits of LSC Recipients was updated in April 2016. The *LSC OIG Audit Guide* and appendices required revisions to incorporate changes to LSC regulations, auditing standards, and other guidelines that have changed. The changes are to enhance clarity in guidance and suggested audit procedures.

DATES: The *LSC OIG Audit Guide* will be effective on October 1, 2023, for audits of LSC grantee fiscal years ending on or after September 30, 2023.

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SUPPLEMENTARY INFORMATION:

I. History of this Action

Updating the *LSC OIG Audit Guide* and appendices is essential in fulfilling the OIG's responsibility for oversight. The *LSC OIG Audit Guide* and appendices

provide a uniform approach for audits of LSC recipients and describe recipients' responsibilities with respect to such audits. Audits of recipients are to be performed in accordance with this *LSC OIG Audit Guide* and Compliance Supplement (Appendix A), among other criteria. The *LSC OIG Audit Guide* and the Compliance Supplement give auditors guidance in planning and performing audits to accomplish audit objectives.

Significant changes include eliminating the requirement to classify LSC recipients as High-Risk; adding a requirement to consider all LSC funds as major programs regardless of spending threshold; and revising suggested audit procedures for changes to 45 CFR 1635—Timekeeping Requirement. The appendix designations have changed because we eliminated the appendices addressing a Sample Audit Agreement and Guide for Procurement of Audit Services. Information on these topics is readily available from other sources.

II. General Discussion of Comments

The LSC OIG received three comments during the public comment period. All comments were on the Compliance Supplement. The commenters were McBride, Lock & Associates, LLC, the LSC OIG Quality Control Review contractor; Eide Bailly, an LSC recipient Independent Public Accountant; and the National Legal Aid & Defender Association (NLADA), a non-LSC funded non-profit, in cooperation with experienced Chief Financial Officers of legal aid organizations and the NLADA Regulations Committee. One NLADA comment strongly supported the proposed change to the Overview section stating that LSC recipients do not have to be classified as high risk. All comments generally support the LSC OIG changes.

We also received comments for changes to accounting guidance. OIG does not issue accounting guidance and forwarded these comments to LSC. NLADA strongly supported the LSC OIG's decision to no longer require that LSC recipients be classified as High Risk. The NLADA also commented that it generally does not favor blanket requirements but does not oppose the LSC OIG requirement that all LSC funds be classified as major programs. LSC recipients must have an annual audit and classifying the funds as a major program does not add a burden to LSC recipients. One comment was to correct a typographical error which was corrected. The remaining comments will be discussed in Section III, Detailed Discussion of Comments.

III. Detailed Discussion of Comments-Compliance Supplement Part D

Fund Balances

Comment – The commenter, McBride Lock & Associates, stated that Part 1628 refers to an analysis of fund balance to determine whether a waiver is required to carryover LSC funds. The commenter further noted that this has been confusing for IPAs since LSC issued Program Letter 20-4, Revenue Recognition Guidance. The commentor stated that the regulatory reference uses the term fund balance, and this section should include a definition of fund balance for purposes of calculating the carryover amount.

Response – The LSC OIG agreed with this suggestion and updated the second paragraph on page 58. This section now includes the *LSC Financial Guide's*, section 3.3 definition of fund balance.

Fund Balances, Compliance Requirements Section, Third Paragraph

Comment – The commentor, Eide Bailly, suggested that the following compliance requirement be revised to include relevant regulatory language. “Recipients may request a waiver to retain a fund balance in excess of 10%

of LSC support pursuant to 45 CFR 1628.3. Absent a waiver, recipients must repay a fund balance in excess of 10% of LSC support. If a waiver of the 10% ceiling is granted, the recipient must repay any fund balance in excess of the amount permitted to be retained. (45 CFR 1628.3)

The commentor suggested the text read, “Recipients may request a waiver to retain a fund balance in excess of 10% of LSC support pursuant to 45 CFR 1638.3. Absent a waiver, recipients must repay a fund balance in excess of 10% of LSC support. If a waiver of the 10% ceiling is granted, the recipient may retain up to the amount permitted in the waiver but must repay any fund balance in excess of the amount permitted to be retained. (45 CFR 1628.3).

Response – The LSC OIG agreed with the suggested change and updated Appendix A, Compliance Supplement.

Timekeeping, 2. Audit Procedures-Internal Control b.

Comment – The commentor, McBride Lock & Associates suggested changing the language in the Part 1635—Timekeeping Requirement section from, “...how the recipient has revised its timekeeping policies to comply...” to “...how the recipient has established its timekeeping policies to comply...”

Response – The LSC OIG agreed with the comment and made this change.

Timekeeping, Section 2b, Audit Procedures-Internal Control and Section 3, Audit Procedures – Substantive

Comment –NLADA suggested two clarifications in the Part 1635—Timekeeping Requirement section. The comment was to add a reference to the *LSC Financial Guide in Section 2b* noting that the *LSC Financial Guide* lists timekeeping requirements. NLADA also suggested that LSC OIG clarify

the “minimum sample size of 20 timesheets” in 3. Audit Procedures – Substantive. The suggested clarification is to be clear that one timesheet means a timesheet of one pay period for one employee.

Response – The LSC OIG agreed with these suggestions and added a reference to the *LSC Financial Guide* and added language to clarify the sample size.

For the reasons stated above, the Legal Services Corporation Office of Inspector General revises the *LSC OIG Audit Guide for Recipients and Auditors*. The revised *LSC OIG Audit Guide for Recipients and Auditors* and its appendices are available on the LSC OIG website at: [Audit Guidance \(lsc.gov\)](https://www.lsc.gov/Audit-Guidance).

The Audit Guide and appendices contain references to other documents, such as LSC program letters and forms. We plan to update these references as they are modified.

(Authority: 42 U.S.C. 2996g(e).)

Dated: May 12, 2023.

Stefanie Davis,

Senior Associate General Counsel for Regulations.

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